

# IOWA DEPARTMENT OF NATURAL RESOURCES

## ADMINISTRATIVE CONSENT ORDER

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**IN THE MATTER OF:****CITY OF CLARENCE****Wastewater Facility No. 06-16-30-0-01****ADMINISTRATIVE  
CONSENT ORDER****NO. 2015-WW- 05**

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**TO: City of Clarence**  
**c/o Honorable Mayor and Council**  
**411 Lombardi Street, P.O. Box 418**  
**Clarence, IA 52216**

### I. SUMMARY

This administrative consent order (order) is entered into between the City of Clarence (City) and the Iowa Department of Natural Resources (Department). The City hereby agrees to comply with the schedule contained in this order for wastewater treatment facility improvements. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Terry Jones  
Environmental Specialist Senior  
IDNR Field Office No. 6  
1023 W. Madison  
Washington, IA 52353-1623  
Ph: 319/653-2135

**Relating to legal requirements:**

Diana Hansen  
Attorney at Law  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034  
Ph: 515/725-8248

### II. JURISDICTION

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

**III. STATEMENT OF FACTS**

The parties agree to the following statement of facts.

1. The City is an incorporated community located in the northeast corner of Cedar County, Iowa with a population of 974 (2010 census). The City owns and operates a wastewater treatment facility (WWTF) located in Section 22, T82N, R2W, in Cedar County, Iowa. The WWTF consists of a large four cell waste stabilization lagoon system of approximately 35 surface acres. The WWTF provides wastewater treatment for the community. The lagoon system was constructed in 1995 as a replacement to the older outdated system previously used. The 1995 improvements did not address the collection system. A new 15 inch PVC interceptor line was installed in 1998.

2. Pursuant to the NPDES permit for the City's WWTF, it is required to be operated as a controlled discharge facility. The NPDES permit for the City requires the WWTF to operate using a storage/drawdown mode of operation. Wastewater must be stored for approximately 180 days in this lagoon system. Such facilities are limited to two discharges per calendar year, which are to occur in the spring and fall. Nearly every wastewater inspection completed by the Department since 1996 has documented excessive infiltration/inflow (I/I) within the collection system. These inspections also have documented that influent flows routinely exceed system design. The City has continually been instructed to address I/I issues. The City's significant I/I problems have resulted in storage periods less frequent than 180 days and influent flows that consistently exceed system design.

3. Effluent is discharged to Mill Creek pursuant to Iowa NPDES Permit No. 6-16-30-0-01. The NPDES permit was issued on May 7, 2001 and expired on May 6, 2006. The facility has submitted a permit renewal application. The NPDES permit contains limitations on influent and effluent flow rates, effluent limits, monitoring requirements and other terms as set forth in the permit.

4. On September 30, 2002, the Department's Field Office No. 6 (FO 6) sent a letter and an inspection report to the City that required the City to submit a plan of action (POA) for eliminating excessive I/I to the City's WWTF and the frequent discharges from the City's WWTF.

5. On June 30, 2003, the City's engineer submitted a POA to FO 6 as required by the September 2002 inspection. The POA reported the City's I/I reduction efforts. The City had updated sewer maps, conducted a user survey, purchased a jetter truck with televising equipment, and repaired two major breaks discovered in the storm sewer system that were allowing storm water to inflow into the sanitary sewer collection system. The POA recommended continued prevention and elimination of I/I sources, planning and budgeting for point repairs, and pipe lining. The POA also discussed possible interceptor

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

installation and conversion of the controlled discharge system to a continuous discharge system, neither of which address I/I problems.

6. On October 18, 2005, FO 6 conducted a wastewater inspection of the City's WWTF. FO 6 issued a notice of violation (NOV) for operating the lagoon system contrary to the conditions of the NPDES permit. The report also stated that a city employee reported that he was required by the city council to operate the lagoon at a maximum water depth of five feet for the primary cells and at seven feet for the secondary cells to prevent basement backups. The lagoon is designed to operate at six feet for the primary cells and at eight feet for the secondary cells. The city was required to operate the lagoon as designed, to discharge only in the spring and fall as required by the NPDES permit, and to ensure a retention time of approximately 180 days between discharges.

7. On November 3, 2005, the City provided a written response to the October 18, 2005 inspection. The City reported that it planned to complete televising and jetting the collection system before initiating repairs to ensure the worst problems are addressed first. The City stated that it would continue raising manholes, that it would continue its inspection of residents' drains and sumps, and that it would disconnect those found connected to the system.

8. On April 21, 2008, FO 6 staff visited Clarence and noted the City had discharged from its wastewater lagoon system approximately quarterly in 2007. On July 18, 2008, FO 6 conducted a wastewater inspection of the City's WWTF. On July 31, 2008, FO 6 issued an NOV to the City for operating the lagoon system contrary to the conditions of the City's NPDES permit and for late submittals of monthly daily monitoring report (DMR's). The report noted that influent flows to the WWTF exceeded the system's design every month of the DMR review period of July 2007 through June 2008 and that the City discharged during 8 of the 12 months of the DMR review period. The City was required to submit an engineering evaluation by December 31, 2008 that included a schedule for achieving compliance with the conditions of the City's NPDES permit.

9. On September 26, 2008, the City submitted a written report to FO 6 identifying actions taken or would be taken by the City to address I/I in its collection system. The report was not written by an engineer. The actions identified in the City's response appeared to be a continuation of those detailed in the City's November 3, 2005 response.

10. On January 5, 2012, FO6 conducted a wastewater inspection of the City's WWTF. On January 9, 2012, the Department issued the City an NOV for operating the lagoon system contrary to the conditions of the City's NPDES permit. The FO 6 inspection report expressed concern with the slow progress of the City's I/I efforts and noted that the City's lagoon system did not have the capacity to store wastewater for the required time period. FO 6 required the City to have an engineering evaluation completed to determine what actions were needed to comply with the requirements of the NPDES permit. FO 6

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

required that the City submit a written engineering report by May 1, 2012 identifying a schedule for achieving compliance with the conditions of the NPDES permit.

11. On October 11, 2012, the City's engineer submitted to FO 6 a written plan for the City concerning I/I reduction. The plan identified the actions that the City had taken or would take to address I/I. The plan included timelines for future action.

12. On July 15, 2013, FO 6 visited the City to discuss I/I activities. By a July 16, 2013 letter, FO 6 informed the City that the Department could not renew the City's expired NPDES permit because of the City's inability to operate the WWTF in accordance with the conditions of the City's expired NPDES permit. The FO 6 letter also informed the City that the Department would not accept the compliance schedule in the City engineer's October 2012 plan. The FO 6 letter required specific day-month-year timelines in lieu of the year-only timelines as proposed by the plan proposed in the City engineer's October 2012 letter. FO 6 required the City to submit an updated timeline by September 1, 2013. The deadline was extended for 30 days at the request of the City's Mayor on August 29, 2013.

13. On September 26, 2013, the City submitted a letter that included a plan for implementing future I/I reduction and a facility plan. FO 6 received the City's letter on October 1, 2013.

14. The City contracted with an engineering firm to conduct a smoke testing investigation and manhole inspections during fall 2014 and spring 2014. The City informed the Department that additional I/I reduction efforts stemmed from this investigation, including capping abandoned open sanitary sewer cleanouts. The City contracted with the same engineering firm in August 2014 to complete an engineering study to map priority areas and show where in-town sewer lining, upsizing of pipes and other solutions would benefit the system.

15. The City completed replacing the sanitary sewer line on Piatt Street, between 6<sup>th</sup> and 7<sup>th</sup> Avenues, on August 29, 2014. This construction eliminated a large storm sewer cross connection and replaced deteriorated sewer pipe.

16. This order is issued to establish a firm schedule for upgrading the City's WWTF to correct the excessive I/I and to enable this facility to properly operate as a controlled discharge facility with 180 days retention time in the lagoon system.

#### **IV. CONCLUSIONS OF LAW**

The parties agree that the following conclusions of law are applicable to this matter.

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60-64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

3. This facility's NPDES permit requires facilities to be adequately operated and maintained. Standard Condition 8 of the permit provides that all facilities and control systems shall be operated as efficiently as possible and maintained in good working order. This standard permit condition is based upon subrule 64.7(5)"f". This subrule states "the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit."

4. The City's failure to operate this facility as a controlled discharge facility and failure to eliminate I/I in order to operate as a controlled discharge facility is in violation of Standard Condition No. 8 of the permit and subrule 64.7(5)"f".

**V. ORDER**

THEREFORE, the Department orders and the City agrees to comply with the following provisions and schedule in order to cease, abate, and redress the above-cited violations:

1. The City is required to follow-up with all remaining property owners that were found to have illegal connections during the 2011 home inspections and require City property owners to complete construction repairs by June 30, 2015.

2. By May 1, 2015, the City is required to contract with a televising contractor to clean and televise the entire City sewer system and to submit televising reports to the City's engineer.

3. The City is required to complete wet weather flow monitoring during spring 2015 to check for flow high flow problem areas. By August 1, 2015, the City is required to complete sewer televising and review completed sewer televising data, smoke testing and collection system flow monitoring results to determine the scope of the I/I reduction project that would be needed. The City is required to submit a report to FO 6 by August 1, 2015 concerning the further I/I work that needs to be conducted. The total I/I improvement project scope will be separated into two project phases. This will give the

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

City the opportunity to take advantage of two Community Development Block Grant (CDBG) grant cycles.

4. The City is required to submit complete Phase I final plans and specifications by October 1, 2015 to the Department's Wastewater Engineering Section (WES) for completion of the Phase 1 Collection System I/I Improvement Project. This project consists of additional construction to reduce I/I in the collection system.

5. The City is required to submit an application for a CDBG by November 15, 2015 for the Phase 1 Collection System I/I Improvement Project.

6. The City is required to begin construction of the Phase I Collection System I/I Improvement Project by July 1, 2016 and to complete the project by April 1, 2017.

7. The City is required to submit complete Phase 2 final plans and specifications by October 1, 2016 to the WES for completion of the Phase 2 additional construction to reduce I/I in the collection system.

8. The City is required to submit an application for a Community Development Block Grant (CDBG) by November 15, 2016 for the Phase 2 Collection System I/I Improvement Project.

9. The City is required to begin construction of the Phase 2 Collection System I/I Improvement Project by July 1, 2017 and to complete the project by April 1, 2018.

10. Following completion of the I/I work in the City's collection system, the City is required to analyze WWTF influent flows to determine if the City's WWTF can comply with the 180 day retention time required by the permit for the WWTF and can be operated as a controlled discharge lagoon system. The City is required to submit a report to FO 6 by May 31, 2018 concerning this flow study and whether the upgraded collection system will allow the WWTF to meet the 180 day retention requirement of the permit. This report is required to be completed by a professional engineer certified by the State of Iowa. The report is required to state whether an upgrade to the City's WWTF is needed to enable the City to operate the WWTF as a controlled discharge facility with 180 days retention time in accordance with the City's NPDES permit.

11. In the event that FO 6 determines that the City's WWTF can not be properly operated as a controlled discharge facility following the I/I work, FO 6 will notify the City that additional work needs to be done to return the City to compliance. Following notification by FO 6, the City is required to comply with the following implementation schedule in order to return to compliance.

A. By June 30, 2018, the City is required to retain a professional engineer certified by the State of Iowa to assist the City in the design and construction of necessary facility

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

upgrades and repairs, including the further elimination of I/I in the sewer system and/or an upgrade to the lagoon system.

B. By July 31, 2018, the City's engineer is required to contact the Department's wastewater construction permits staff to schedule a project initiation meeting. A Department engineer will be assigned as the project manager. The City's engineer is required to attend the preplanning meeting scheduled by the Department project manager.

C. The City is required to submit a facility plan to the Department project manager by July 31, 2019 for the City's proposed construction project.

D. The City is required to submit complete final Plans and Specifications meeting Department design standards and a construction permit application for the City's proposed WWTF construction project to the Department's Wastewater Engineering Section by July 31, 2020.

E. The City is required to begin construction of the City's proposed WWTF construction project by July 1, 2021.

F. The City is required to complete construction of the City's WWTF construction project by July 1, 2022. The City is required to close out the project and have a WWTF capable of meeting all NPDES permit requirements by August 1, 2022.

12. The City is required to submit a progress report to FO 6 within thirty days of completion of each of the deadlines listed in Paragraphs V.1- 11 of this order to verify that the particular deadline has been met.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in Chapter 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order without an administrative penalty.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
CITY OF CLARENCE**

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Environmental Protection Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, all rights to appeal this order are waived.

**VIII. NONCOMPLIANCE**

Compliance with Paragraph V. of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

  
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JERIC ARMSTRONG, MAYOR  
CITY OF CLARENCE

Dated this 10 day of  
MARCH, 2015.

  
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CHUCK GIPP, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 24<sup>th</sup> day of  
March, 2015.

City of Clarence- Wastewater Facility No. 6-16-30-0-01 (Copy to Central Office Records File), Field Office 6- Terry Jones, Adam Schneiders- NPDES Permits, Legal Services- Diana Hansen, I.B.2.d.